

IN THE CLAIMS: See Listing of Claims. This listing will replace all prior versions of claims in the application.

REMARKS

The Applicants acknowledge the Examiner's comprehensive Office Action with appreciation. The Office reiterates the telephonic Restriction Requirement of June 16, 2006. Claims 19-36 remain pending in the application; however, Claims 23-28 have been withdrawn from consideration as a result of the Restriction Requirement. The Office raises rejections under 35 USC § 112, first and second paragraphs. The Office also raises objections as to form.

With regard to the Restriction Requirement, it is the position of the Office that the Restriction **Groups I-IV** do not relate to a single inventive concept since they are drawn to structurally different compounds comprising patentably distinct core structures. The applicants **traverse** this conclusion on the grounds that a chemist would not find the instant invention to involve structurally distinct inventions. Absent contradictory evidence that those skilled in the art would find the instant invention to consist of multiple inventions, it is submitted that the Office Requirement is not substantiated.

The Office acknowledges the Applicants' provisional election, **with traverse**, of **Group II** and requests confirmation of this election. The Office also objects to Claims 19 and 29-36 as containing non-elected subject matter.

Thus, with the instant Response, the Applicants confirm the election, **with traverse**, to prosecute the invention of **Group II**, Claims 19-22 and 29-36, drawn to compounds of formula (I) in which **A**, together with the carbon atoms to which it is bonded, represents a group of formula (a), and R_2 and R_3 form a bond, pharmaceutical compositions containing these compounds, and a method of using these compounds. Moreover, with the instant Amendment, the Applicants have cancelled the non-elected subject matter without prejudice to its prosecution in a Divisional Application.

The Office states that the Declaration submitted with the filing papers of the instant application is defective because the filing date of the French priority document is listed as 10/18/2001, and the correct date is 10/18/2002. With the instant Response, the Applicants provide a new Declaration in compliance with 37 CFR § 1.67(a) which lists the correct filing date of the French priority document.

Claims 35 and 36 are rejected for lack of enablement under 35 USC § 112, first paragraph. It is the position of the Office that the specification, while being enabling for treatment of a limited number of cancers, does not reasonably provide enablement for treatment of all cancers. Specifically, the Office states that the specification provides support for treating leukemia, prostate carcinoma, non small-lung cell carcinoma, colon carcinoma, and epidermoid carcinoma.

With the instant Amendment, Claim 35 has been amended to limit the conditions claimed to be treatable to leukemia, prostate carcinoma, non small-lung cell carcinoma, colon carcinoma, and epidermoid carcinoma, which conditions are acknowledged as enabled by the Office, and pharmaceutical composition Claim 36 has been amended to delete the functional language "useful in treating cancer" since such functional language is not considered by the Office to have any patentable relevance in pharmaceutical composition claims. Reconsideration and withdrawal of the lack of enablement rejection is respectfully requested.

Claim 35 is also rejected for indefiniteness under 35 USC § 112, second paragraph. It is the position of the Office that the phrase "including a human" in Claim 35 is improper because it represents a subgeneric phrase included within a generic phrase. With the instant Amendment, Claim 35 has been amended to delete the phrase "including a human" and new method Claim 37, which is directed to treating a human and which is dependent on Claim 35, has been added. Reconsideration and withdrawal of the indefiniteness rejection is respectfully requested.

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Accordingly, entry of present election, substitute Declaration, and amendment, reconsideration of all grounds of objection and rejection, withdrawal thereof, and passage of this application to issue are all hereby respectfully solicited.

It should be apparent that the undersigned agent has made an earnest effort to place this application into condition for immediate allowance. If she can be of assistance to the Examiner in the elimination of any possibly-outstanding insignificant impediment to an immediate allowance, the Examiner is respectfully invited to call her at her below-listed number for such purpose.

Allowance is solicited.

Respectfully submitted,

THE FIRM OF HUESCHEN AND SAGE

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Enclosure: Declaration and Power of Attorney; Listing of Claims; and Postal Card Receipt

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THE COMMISSIONER IS HEREBY AUTHORIZED TO CHARGE ANY FURTHER OR ADDITIONAL FEES WHICH MAY BE REQUIRED (DUE TO OMISSION, DEFICIENCY, OR OTHERWISE), OR TO CREDIT ANY OVERPAYMENT, TO DEPOSIT ACCOUNT NO. 08,3220.